

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 21, 2015

☐ Consent
☐ Ordinance

() Regular
(X) Public Hearing

Department

Submitted By: Administration

Submitted For: Administration

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, pertaining to the posting of kratom warning signs; providing for definitions; providing for general requirements; providing for enforcement; providing for severability; providing for repeal of laws in conflict; providing for inclusion in the code of laws and ordinances; providing for captions; providing for applicability; and providing for an effective date.

Summary: The Ordinance was requested by the Board of County Commissioners to address health concerns regarding consumption and use of the plant substance kratom, also known as *Mitragyna speciosa*, and kratom-containing products. The proposed ordinance requires the posting of warning signs in business establishments where kratom is sold or dispensed to make potential consumers aware of the risk and potential for harm associated with use and consumption of the substance. Kratom is considered highly addictive and has effects on the body including respiratory depression, psychosis, delusions, tremors, nausea, constipation, anorexia, vomiting, insomnia, and severe withdrawal signs and symptoms. The Ordinance was approved on first reading on March 10, 2015. Countywide (JB)

Background and Justification: Kratom is not controlled under the federal Controlled Substance Act and is legal in the United States, but is on the U.S. Drug Enforcement Administration (DEA) list of Drugs and Chemicals of Concern. Most sources agree that kratom has the potential to be dangerous and cause adverse health effects, particularly when taken in high doses. Earlier this year, the U.S. Food and Drug Administration (FDA) issued an import alert on shipments of dietary supplements and bulk dietary ingredients that contain kratom citing the fact that kratom is “a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury” (USDA Import Alert #54-15, 06/16/2014). The sign ordinance is modeled after the Posting of Underage Drinking Signs Ordinance and will be accompanied by an education program conducted by the Palm Beach County Substance Awareness Coalition. The Florida Department of Law Enforcement (FDLE) is reportedly researching kratom and expects to have findings available in the fall.

Attachments:

- 1) Proposed Ordinance
- 2) Warning Sign

Recommended by: N/A

Department Director Date

Approved by:  4/10/15
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures					
Operating Costs	<u>25,000</u>	<u>25,000</u>	<u>25,000</u>		
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	<u>25,000</u>	<u>25,000</u>	<u>25,000</u>		

ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes _____ No X

Budget Account No.: Fund 0001 Agency 240 Org 2533 Object 820 Program Code _____

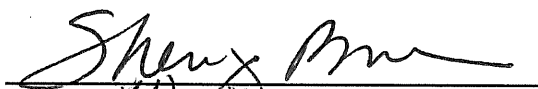
B. Recommended Sources of Funds/Summary of Fiscal Impact


Approximately \$25,000 annual fiscal impact associated with sign production and companion education program from contingency reserves. There are also undetermined expenses related to enforcement that will be managed through existing staff resources/budgets.

C. Department Fiscal Review:

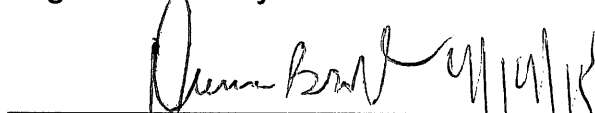
III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Administrator Comments:


OFMB 4/10/15 AK
4/10/15


Contract Administrator
4-13-15 BW heeler

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO POSTING OF KRATOM WARNING SIGNS; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, finds that the use of the plant substance kratom also known as *Mitragyna speciosa*, including dietary supplements containing kratom, is a potential health concern in Palm Beach County; and

WHEREAS, kratom is considered highly addictive and has effects on the body including: respiratory depression, psychosis, delusions, tremors, nausea, constipation, anorexia, vomiting, insomnia, and severe withdrawal signs and symptoms; and

WHEREAS, the Federal Drug Enforcement Administration (DEA) has placed kratom on its list of drugs and chemicals of concern; and

WHEREAS, the U.S. Food & Drug Administration has concluded that there is inadequate information on kratom to provide reasonable assurance that kratom and products containing kratom do not present a significant or unreasonable risk of illness or injury; and

WHEREAS, potential consumers or users of kratom should be aware of the risk and potential for harm associated with use and consumption of kratom and products containing kratom; and

WHEREAS, the posting of signs with information related to kratom consumption and use will make the public aware of the potential health and behavioral effects and federal agency placement of kratom on its list of drugs and chemicals of concern; and

WHEREAS, the Palm Beach County Substance Awareness Coalition has endorsed posting of these types of signs as an effective measure to generate awareness and discourage use of kratom; and

WHEREAS, the Board of County Commissioners finds that it will serve the public health, safety and welfare of the citizens of Palm Beach County to educate the public as to the risks associated with kratom use.

1 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
2 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

3 **Section 1. Definitions**

4 The following words, phrases, or terms when used in this Ordinance shall, unless the content
5 otherwise indicates, have the meanings provided below. No attempt is made to define ordinary
6 words which are used in accordance with their established dictionary meaning except when
7 necessary to avoid misunderstanding.

8 a) ***Business Establishment*** includes, but is not limited to, any place of business or any
9 club, organization, person, firm, corporation or partnership, such as: a golf club; country
10 club; veteran's fraternal or benevolent organization; grocery store; drug store; night
11 club; bottle club; bar; tavern; restaurant; grill; kava bar, filling station; convenience
12 store; or any other building, structure or location or portion thereof, wherein one person
13 directly or indirectly pays another for the purchase or dispensing of kratom or a product
14 containing kratom.

15 b) ***Conspicuously posted*** means clearly visible, easily readable and immediately apparent
16 upon viewing.

17 c) ***Dispense*** means the storing, handling, apportionment, preparation, gift, distribution, or
18 serving, directly or indirectly, of any amount of kratom or a product containing kratom
19 to or for any person by any officer, owner, operator, lessee, or employee of a business
20 establishment. For purposes of this definition, permitting or allowing any person to
21 carry kratom or kratom containing products on the premises of any business
22 establishment to be consumed thereon shall constitute "dispensing" of such substances.

23 d) ***Person*** means an individual, person, firm, joint venture, partnership, corporation, estate,
24 trust, business trust, syndicate, fiduciary, association, and all other groups or
25 combinations.

26 e) ***Sale*** means any transfer of kratom or kratom containing products for consideration, or
27 any gift of kratom or kratom containing products in connection with or as a part of a
28 transfer of any property or product for consideration.

29 f) ***Vendor of*** kratom or kratom containing products means any person who owns or
30 operates a business establishment which sells or dispenses kratom or kratom containing
31 products for consumption on or off the premises.

1 **Section 2. General Requirements**

2 **a)** All persons who own or operate a business establishment in Palm Beach County which
3 sells or dispenses kratom or kratom containing products for consumption on or off the
4 premises shall conspicuously post a notice within said business establishment. Failure
5 to post such required notice pursuant to the requirements of this Section 2, shall
6 constitute a violation of this Ordinance.

7 **b)** Required notice shall consist of one or more signs or notices, each of which is not less
8 than ninety-three square inches (8-1/2"x11"), and be in bold letters. Signs or notices
9 shall be in a font-type as specified below, which contains the following information,
10 clearly discernable by persons to whom kratom or kratom containing products may be
11 sold or dispensed:

- 12 1. The word "WARNING" in a rectangular black background Myriad Pro
13 BLACK font uppercase, font size 164 pts.
- 14 2. "The DEA has placed KRATOM on its list of Drugs and Chemicals of
15 Concern" centered text Myriad Pro BLACK font lower and upper case, font
16 size 44 pts.
- 17 3. "KRATOM is considered highly addictive and has effects on the body
18 including:" in a rectangular black background Myriad Pro BLACK font
19 lower and upper case, font size 42 pts.
- 20 4. The terms "Psychosis, Nausea, Respiratory Depression, Delusions,
21 Anorexia, Tremors, and Insomnia" shall each have bullets as justified left
22 text Myriad Pro BLACK font lower and upper case, font size 40 pts.
- 23 5. The Palm Beach County logo along with the text "Posted Pursuant to Palm
24 Beach County Code Section XXXXXXXX centered, Myriad Pro BLACK font
25 lower and upper case, font size 22 pts.

26 **Section 3. Enforcement**

27 It is unlawful to violate any provisions of this Ordinance. Such violations may be
28 enforced by all means available at law including but not limited to enforcement proceedings
29 before Palm Beach County Code Enforcement Special Masters, the prosecution of violations in
30 the name of the State of Florida pursuant to the authority granted by Sec. 125.69, Florida
31 Statutes, as may be amended, or any other lawful actions as are necessary to prevent or remedy

any violation of this Ordinance.

Section 4. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. Repeal of Laws in Conflict

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 6. Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. Captions

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 8. Applicability

All provisions of this Ordinance shall apply to the unincorporated areas of Palm Beach County, Florida, and to all municipalities within Palm Beach County that elect to have the provisions of this Ordinance apply within their respective jurisdictions.

Section 9. Effective Date

The provisions of this Ordinance shall become effective on July 1, 2015.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 2015.

SHARON R. BOCK
CLERK & COMPTROLLER

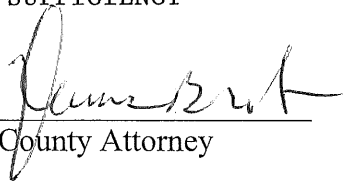
PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

1
2
3
4
5
6
7

By: 
Assistant County Attorney

Filed with the Department of State on the ____ day of _____, 2015.

WARNING

**The DEA has placed KRATOM on its list
of Drugs and Chemicals of Concern**

**KRATOM is considered highly addictive
and has effects on the body including:**

- **Psychosis**
- **Nausea**
- **Respiratory Depression**
- **Delusions**
- **Anorexia**
- **Tremors**
- **Insomnia**



Posted Pursuant to
Palm Beach County Code Section XXXXXXXX